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(Original Signature of Member)

107TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. CONYERS (for himself, Mr. WAXMAN, Mr. STARK, Ms. NORTON, Mr. ANDREWS, Ms. RIVERS, Mr. BOUCHER, Ms. KAPTUR, Mr. KILDEE, Mr. KUCINICH, Mr. KLECZKA, Mr. GREEN of Texas, and Mr. HALL of Ohio) introduced the following bill; which was referred to the Committee on

A BILL

To amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident-physicians to ensure the safety of patients and resident-physicians themselves.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Patient and Physician
3 Safety and Protection Act of 2001”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The Federal government, through its medi-
7 care program, pays approximately \$8 billion per year
8 solely to train resident-physicians in the United
9 States, and as a result, has an interest in assuring
10 the safety of patients treated by resident-physicians
11 and the safety of resident-physicians themselves.

12 (2) Resident-physicians spend a significant
13 amount of their time performing activities not re-
14 lated to the educational mission of training com-
15 petent physicians.

16 (3) The excessive numbers of hours worked by
17 resident-physicians is inherently dangerous for pa-
18 tient care and for the lives of resident-physicians.

19 (4) The scientific literature has consistently
20 demonstrated that the sleep deprivation of the mag-
21 nitude seen in residency training programs leads to
22 cognitive impairment.

23 (5) A substantial body of research indicates
24 that excessive hours worked by resident-physicians
25 lead to higher rates of medical error, motor vehicle
26 accidents, depression and pregnancy complications.

1 (6) The medical community has not adequately
2 addressed the issue of excessive resident-physician
3 work hours.

4 (7) Different medical specialty training pro-
5 grams have different patient care considerations but
6 the effects of sleep deprivation on resident-physi-
7 cians does not change between specialties.

8 (8) The Federal government has regulated the
9 work hours of other industries when the safety of
10 employees or the public is at risk.

11 **SEC. 3. REVISION OF MEDICARE HOSPITAL CONDITIONS OF**
12 **PARTICIPATION REGARDING WORKING**
13 **HOURS OF RESIDENTS.**

14 (a) IN GENERAL.—Section 1866 of the Social Secu-
15 rity Act (42 U.S.C. 1395cc) is amended—

16 (1) in subsection (a)(1)—

17 (A) by striking “and” at the end of sub-
18 paragraph (R);

19 (B) by striking the period at the end of
20 subparagraph (S) and inserting “; and”; and

21 (C) by inserting after subparagraph (S)
22 the following new subparagraph:

23 “(T) in the case of a hospital that uses the
24 services of physician residents or postgraduate train-

1 ees, to meet the requirements of subsection (j).”;
2 and

3 (2) by adding at the end the following new sub-
4 section:

5 “(j)(1)(A) In order that the working conditions and
6 working hours of physicians and postgraduate trainees
7 promote the provision of quality medical care in hospitals,
8 as a condition of participation under this title each hos-
9 pital shall establish the following limits on working hours
10 for certain members of the medical staff and postgraduate
11 trainees:

12 “(i) Subject to subparagraph (C), postgraduate
13 trainees may work no more than a total of 80 hours
14 per week and 24 hours per shift.

15 “(ii) Subject to subparagraph (C), postgraduate
16 trainees—

17 “(I) shall have at least 10 hours between
18 scheduled shifts;

19 “(II) shall have at least 1 full day out of
20 every 7 days off and one full weekend off per
21 month;

22 “(III) who are assigned to patient care re-
23 sponsibilities in an emergency department shall
24 work no more than 12 continuous hours in that
25 department; and

1 “(IV) shall not be scheduled to be on call
2 in the hospital more often than every third
3 night.

4 “(B) The Secretary shall promulgate such regulations
5 as may be necessary to ensure quality of care is main-
6 tained during the transfer of direct patient care from one
7 postgraduate trainee to another at the end of each such
8 24 hour period referred to in subparagraph (A) and shall
9 take into account cases of individual patient emergencies.

10 “(C) The work hour limitations under subparagraph
11 (A) and requirements of subparagraph (B) shall not apply
12 to a hospital during a state of emergency declared by the
13 Secretary that applies with respect to that hospital.

14 “(2) The Secretary shall promulgate such regulations
15 as may be necessary to monitor and supervise post-
16 graduate trainees assigned patient care responsibilities as
17 part of an approved medical training program, as well as
18 to assure quality patient care.

19 “(3) Each hospital shall inform postgraduate trainees
20 of—

21 “(A) their rights under this subsection, includ-
22 ing methods to enforce such rights (including so-
23 called whistle-blower protections); and

1 “(B) the effects of their acute and chronic sleep
2 deprivation both on themselves and on their pa-
3 tients.

4 “(4) For purposes of this subsection, the term ‘post-
5 graduate trainee’ includes a postgraduate intern, resident,
6 or fellow.”.

7 (b) DESIGNATION.—

8 (1) IN GENERAL.—The Secretary of Health and
9 Human Services shall designate an individual within
10 the Department of Health and Human Services to
11 handle all complaints of violations that arise from
12 residents who report that their programs are in vio-
13 lation of the requirements of section 1866(j) of the
14 Social Security Act (as added by subsection (a)).

15 (2) GRIEVANCE RIGHTS.—A post graduate
16 trainee or physician resident may file a complaint
17 with the Secretary of Health and Human Services
18 concerning a violation of such requirements. Such a
19 complaint may be filed anonymously. The Secretary
20 may conduct an investigation and take such correc-
21 tive action with respect to such a violation.

22 (3) CIVIL MONEY PENALTY ENFORCEMENT.—
23 Any hospital that violates such requirement is sub-
24 ject to a civil money penalty not to exceed \$100,000
25 for each resident training program in any 6-month

1 period. The provisions of section 1128A of the Social
2 Security Act (other than subsections (a) and (b))
3 shall apply to civil money penalties under this para-
4 graph in the same manner as they apply to a pen-
5 alty or proceeding under section 1128A(a) of such
6 Act.

7 (4) DISCLOSURE OF VIOLATIONS AND ANNUAL
8 REPORTS.—The individual designated under para-
9 graph (1) shall—

10 (A) provide for annual anonymous surveys
11 of postgraduate trainees to determine compli-
12 ance with such requirements and for the disclo-
13 sure of the results of such surveys to the public
14 on a residency-program specific basis;

15 (B) based on such surveys, conduct appro-
16 priate on-site investigations;

17 (C) provide for disclosure to the public of
18 violations and compliance, on a hospital and
19 residence-program specific basis, of such re-
20 quirements; and

21 (D) make an annual report to Congress on
22 the compliance of hospitals with such require-
23 ments, including providing a list of hospitals
24 found to be in violation of such requirements.

25 (c) WHISTLEBLOWER PROTECTIONS.—

1 (1) IN GENERAL.— A hospital covered by the
2 requirements of section 1866(j)(1) of the Social Se-
3 curity Act (as inserted by subsection (a)) shall not
4 penalize, discriminate, or retaliate in any manner
5 against an employee with respect to compensation,
6 terms, conditions or privileges of employment, who
7 in good faith (as defined in paragraph (2)), individ-
8 ually or in conjunction with another person or
9 persons—

10 (A) reports a violation or suspected viola-
11 tion of such requirements to a public regulatory
12 agency, a private accreditation body, or man-
13 agement personnel of the hospital;

14 (B) initiates, cooperates or otherwise par-
15 ticipates in an investigation or proceeding
16 brought by a regulatory agency or private ac-
17 creditation body concerning matters covered by
18 such requirements;

19 (C) informs or discusses with other em-
20 ployees, with a representative of the employees,
21 with patients or patient representatives, or with
22 the public, violations or suspected violations of
23 such requirements; or

1 (D) otherwise avails himself or herself of
2 the rights set forth in such section or this sub-
3 section.

4 (2) GOOD FAITH DEFINED.—For purposes of
5 this subsection, an employee is deemed to act “in
6 good faith” of the employee reasonably believes—

7 (A) that the information reported or dis-
8 closed is true; and

9 (B) that a violation has occurred or may
10 occur.

11 (d) EFFECTIVE DATE.—The amendments made by
12 subsection (a) shall take effect on the first July 1 that
13 begins at least 1 year after the date of the enactment of
14 this Act.

15 **SEC. 4. ADDITIONAL FUNDING FOR HOSPITAL COSTS.**

16 There are hereby appropriated to the Secretary of
17 Health and Human Services such amounts as may be re-
18 quired to provide for additional payments to hospitals for
19 their reasonable additional, incremental costs incurred in
20 order to comply with the requirements imposed by this Act
21 (and the amendments made by this Act).